

Message Text

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PAGE 01 STATE 194131
ORIGIN AF-10

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FM SECSTATE WASHDC
TO AMEMBASSY LAGOS

UNCLAS STATE 194131

E.O. 11652: N/A

TAGS: BENC, ECON, NI

SUBJECT: PROCEDURES FOR PERFORMING A&E WORK IN NIGERIA

REF:LAGOS A-12 OF 2/14/77

1. US A&E FIRM, TETRA TECH, INC. IS CONSIDERING WORK AS SUB-CONTRACTOR TO US ARMY CORPS OF ENGINEERS (COE) SHOULD FMG SIGN PROPOSED COE AGREEMENT. TETRA TECH HAS ASKED A NUMBER OF QUESTIONS ON HOW IT SHOULD EVENTUALLY PROCEED WITH RESPECT TO NIGERIAN BUSINESS LAWS AND REGULATIONS. SPECIFICALLY, A) DOES A CONSULTING ENGINEERING FIRM HAVE TO INCORPORATE LOCALLY (I.E. JOINT VENTURE WITH INDIGENOUS FIRM) IN ORDER TO PERFORM AS A SUB-CONTRACTOR FOR A SPECIFIC JOB WHEN A FOREIGN FIRM HOLDS THE PRIMARY CONTRACT? (OF COURSE IN THE PRESENT INSTANCE THE COE
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WILL HOLD THE CONTRACT AND OBVIOUSLY WILL NOT BE JOINT VENTURING); B) IF THE ANSWER TO (A) IS NEGATIVE, CAN THE SUB-CONTRACTOR CONTINUE TO PERFORM (AS A SUB) ON OTHER JOBS IN NIGERIA WITHOUT INCORPORATING LOCALLY?: C) DO A&E FIRMS HAVE TO COMPLY WITH THE "INDIGENIZATION" DECREE? WE NOTE THAT REFAIR IS NOT CLEAR ON THIS ISSUE BUT ASSUMES THAT SUCH A FIRM MUST COMPLY IN ONE OF THE

SCHEDULED CATEGORIES. IF SUCH A FIRM "INDIGENIZES" UNDER

SCHEDULE III (40 NIGERIAN EQUITY) FOR ITS FIRST JOB
AND LATER OBTAINS ANOTHER CONTRACT FOR A JOB THAT WOULD
NORMALLY PLACE IT IN SCHEDULE II (60 NIGERIAN EQUITY),
WILL THE FIRM BE REQUIRED TO SELL OFF EQUITY IN ORDER
TO COMPLY WITH DECREE FOR JUST THAT ONE JOB?

2. ANY CLARIFICATION EMBASSY MAY BE ABLE TO PROVIDE
WILL BE MOST HELPFUL NOT ONLY TO TETRA TECH BUT TO
DEPARTMENTS OF STATE AND COMMERCE AS WELL. VANCE

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